

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. Case 0:23-cv-61233-JEM -CV- Becerra
(Judge's Last Name/Magistrate's Last Name)

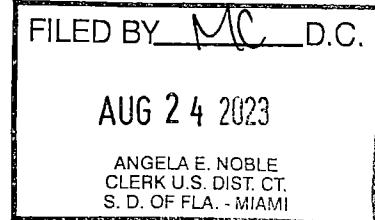
The Smiley Company SPRL

Plaintiff(s)

vs.

THE INDIVIDUALS, PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A."

Defendant(s).



Response to summons in a civil action Case 0:23-cv-61233-JEM

I, nwshanahan [defendant], in the above styled cause, received a summons in an email on Saturday the 12th of August naming me in this civil case and was shocked as you can image. The email came from admin@brickellip.com.

I just want to let you know that the artwork has been removed from Redbubble and the art file deleted.

I have not uploaded the file to any other site or any other e-commerce platform for sale in any way at any other time.

I also never made any sales of the art piece on Redbubble or anywhere else.

I hope you can appreciate that I am just an individual who occasional does a bit of drawing and uploads to Redbubble. I am not well known on Redbubble.

I am not a company or an individual who is looking to profit from infringing on anyone's copyright or IP. That is to say I am not a counterfeiter.

There was no intention on my part to infringe upon the intellectual property rights held by The Smiley Company SPRL.

Basically, I drew a picture of a silly face which I labelled “smiley face” on Redbubble. If I had of know that this was an infringement on the Simley Company SPRL I would not have done it. In my defence I wasn’t even aware that the “smiley face” logo/graphic is copyrighted or owned by a company.

Below is the image that I had uploaded.

I hope you can see that there are differences to the Plaintiffs image. The eyes are “X’s”, the mouth is wobbly, and the tongue is sticking out.

It is more of a silly face as opposed to a smiley face and I should have labeled it something more appropriate such as “Silly face” or “Silly Billy face”.



I believe that anyone looking at it and draws a comparison between the image I drew and the plaintiffs’ image would think it is a parody of the plaintiffs Smiley Face image.

However, I wasn’t even trying to draw a comparison between the two images.

I hope the court will find that there was no intention to infringe upon the Plaintiffs’ IP and copyright.

Ideally, I would like to be dismissed without prejudice from this civil action.

Failing a dismissal, I am hopeful that an equitable resolution will be found as I did not intend to infringe upon the plaintiffs’ IP and I did not benefit financially from uploading the image to Redbubble.

Finally, I would like to apologize for any hurt, harm or stress caused to the plaintiff.

Respectfully

Niall Shanahan, nwshanahan

08/18/2023

Dated: Month, day, year

Respectfully submitted,

Niall Shanahan

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served by email on 08/18/2023 and a letter by registered post on 08/18/2023 on all counsel or parties of record on the Service List below.

Nwshanahan, Niall Shanahan
Signature of Filer

*Niall Shanahan
nwshanahan*

SERVICE LIST

Robert Weaver, Esq.

Party or Attorney Name

rweaver@brickellip.com

Attorney E-mail Address (*if applicable*)

THE BRICKELL IP GROUP, PLLC

Firm Name (*if applicable*)

1101 Brickell Avenue, South Tower, Suite 800

Street Address

Miami FL, 33131

City, State, Zip Code

Telephone: (305) 728-8831

Facsimile: _____

Javier Sobrado

Party or Attorney Name

jsobrado@brickellip.com

Attorney E-mail Address (*if applicable*)

THE BRICKELL IP GROUP, PLLC

Firm Name (*if applicable*)

1101 Brickell Avenue, South Tower, Suite

800

Street Address

Miami FL, 33131

City, State, Zip Code

Telephone: (305) 728-8831

Facsimile: _____

Attorneys for Plaintiff/Defendant
[Party's Name(s)] (if applicable)

Attorneys for Plaintiff/Defendant
[Party's Name(s)] (if applicable)

The Clerk

Wilkie D. Ferguson Jr. U.S. Courthouse

400 North Miami Avenue

Miami, FL 33128

U.S.A

